IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1422 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? :

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

G.S.R.T. CORPORATION

Versus

GUNVANTBHAI MANUBHAI DESAI

Appearance:

1. First Appeal No. 1422 of 1986
MR HARDIK C RAWAL for Petitioner No. 1
MR DD VYAS for Respondent No. 1
NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE KUNDAN SINGH

Date of decision: 21/11/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

#. The appellant-Gujarat State Road Transport Corporation has challenged in this appeal the impugned common judgment and award passed by the learned Motor Accident Claims Tribunal, Valsad at Navsari in Motor Accident Claim Petition No.53/83 whereby the learned Tribunal awarded in all Rs.90,000/= to the respondent-claimant against his claim of Rs.1,45,000/=.

#. Considering oral as well as documentary evidence led by the parties on record, the learned Tribunal came to the conclusion that the driver of the bus was negligent and because of that accident took place wherein the claimant received serious injuries on his legs. We have been taken through the relevant evidence on record. Having carefully gone through the same as well as reasoning assigned by the learned Judge, more particularly, in paras 8 and 9 of his judgment and award, we are fully convinced that the learned Judge has rightly come to the conclusion that the accident took place because of the sheer negligence of the driver of the bus and because of rash and negligent driving on the part of the driver, therefore, we are not inclined to interfere with the impugned judgment and award.

#. The respondent-claimant was only aged 43 years when he met with the accident. He was an agriculturist. Because of the accident, he could not take sugarcane crop for which he was given permission by Gandevi Sugar Cooperative Society. Permission card dated 20.9.1982 was produced at Ex.29. The accident took place on 25.10.1982 i.e. within few days of issuance of the said card. The card discloses that he was to start showing operation in the month of October, 1982. Village form No.7 and 12 shows that sugarcane was in fact a standing crop in the field from the year 1980-91 to 1985-86. However, it has come on record in the evidence of the witnesses that the claimant had to pay Rs.400/= p.m. to his assistance when he was under treatment for nearly 10 to 11 months after accident. Considering all these aspects the learned Tribunal has awarded Rs.4,800/= towards actual economic loss with which we are not inclined to interfere because in our considered opinion the said amount is absolutely reasonable.

#. It was contended on behalf of the appellant that the learned Tribunal took monthly figure of Rs.350/= applying multiplier of 12, it would come to Rs.50,400/=, but the

learned Tribunal straightaway awarded Rs.42,000/= to the claimant. It is true that 1/3rd amount is deducted from total amount of Rs.50,400/= for economic loss then also it would come to Rs.33,600/=. If this was the only fact, then we would have definitely interfered with the award passed by the learned Tribunal, but we found that the learned Tribunal has awarded only Rs.18,200/= towards pain, shock and suffering to the claimant. Considering the injuries received by the claimant on his legs and for that nearly 10 to 11 months he had to take treatment, in our considered opinion, learned Tribunal ought to have awarded Rs.35,000/= under the head of pain, shock and suffering. Thus, the learned Tribunal has awarded at least Rs.17,000/= less under this head. Therefore, though the learned Tribunal has awarded Rs.18,000/= more under the head of economic loss we are not inclined to interfere with the ultimate award passed by the learned Tribunal.

#. No case is made out to interfere with the award passed in favour of the claimant of Rs.25,000/= for medical expenses. The claimant had already produced bills and vouchers which comes to Rs.14,146.65 and considering the fact that at least for five trips he had to undergo physiotherapy and in all Rs.25,000/= was awarded to him under this head. That cannot be said to be more. Thus, in our considered opinion, it may not be said that the learned Tribunal has wrongly awarded in all Rs.90,000/= to the claimant.

#. It may be stated that the appellant-Corporation has also restricted its claim to Rs.45,000/= in this appeal. But, having carefully gone through the entire evidence on record as well as reasoning assigned by the learned Tribunal, we are not inclined to interfere with the ultimate judgment and award passed by the learned Tribunal in favour of the respondent-claimant in Motor Accident Claim Petition No.53/83.

In view of the above discussion this appeal fails and is hereby dismissed.

(B.J.Shethna, J.)

(Kundan Singh, J.)

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